

SHD Paraphrased Regulations - CalWORKs

140 Earned-Income

140-1

Prior to July 1, 1998, state regulations provided that: Earned income is income received in cash or in kind as wages, salary, employer provided sick leave benefits, State Disability Insurance benefits (SDI), Temporary Worker's Compensation (TWC) benefits, commissions or profit from activities such as business enterprises, farming, etc., in which the recipient is engaged as a self-employed individual or as an employee. (§44-101.51)

Effective January 1, 1998 sick leave benefits, SDI, and TWC were reclassified as disability based income. (W&IC §11451.5(b)(2); All-County Letter No. 97-59, October 14, 1997) §44-101.51 was revised effective July 1, 1998 to delete SDI and TWC, but not sick leave benefits, as earned income.

140-6

For purposes of §44-315, the following definitions apply:

- .11 "Net nonexempt income" means all earned income and disability-based unearned income less applicable disregards, plus unearned income.
- .12 "Grant amount" means the amount of cash aid which is to be paid to the AU.
- .13 "Potential grant" is the MAP plus special needs of the family, minus net nonexempt income.

(§44-315.1, effective July 1, 1998, and revised effective July 30, 1999)

140-7

Net nonexempt income is gross income for the AU and other family members (if applicable), minus applicable income exemptions (per §44-111) and income disregards (per §44-113). (§44-207.221, revised effective July 1, 1998)

State regulations provide that gross income includes: "(1) earnings by part-time student applicants; and (2) current child support payments collected by the county, but does not include child support payments collected by the county for a child subject to MFG, (See §44-314.6)." (§44-207.221(a), as revised effective July 1, 1998)

141-1

To determine total profit earned from self-employment, business expenses shall be offset against gross income from self-employment. (§44-113.212)

Effective January 1, 1998, self-employment earnings are governed by new statutory rules. (W&IC §11155.3(c))

141-2

Prior to July 1, 1998, state regulations provided that: Personal expenses such as income tax payments, lunches, entertainment and transportation to and from work are not classified as business expenses and shall not be deducted from gross income in determining total profit earned from self-employment. Other expenses such as depreciation, purchase of capital equipment and payments on the principal of loans or capital assets or durable goods shall not be deducted. (§44-113.212(a), revised effective July 1, 1998)

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Effective January 1, 1998, self-employment earnings were governed by new statutory rules. (W&IC §11155.3(c))

141-3

Prior to July 1, 1998, state regulations provided that: Expenses which are directly related to the production of goods or services by a self-employed person, and without which the goods or services could not be produced, shall be allowed as a deduction. The AFDC recipient must bear the full burden of proof for justifying the existence of and need for any expense allowed under this classification. The county is required to verify the amount of the expenses, and that the expenses were actually incurred. As part of the verification process and in order for the expense to be allowed, the recipient is required to provide the amounts and types of expenses and to provide evidence for each expense, such as a signed receipt, cancelled check, or statements from the person or firm from which an item or service was purchased. (§44-113.212(b), revised effective July 1, 1998)

Effective January 1, 1998, self-employment earnings were governed by new statutory rules. (W&IC §11155.3(c))

141-4 REVISED 8/04

Under monthly reporting/retrospective budgeting, to determine self-employment net income of CalWORKs applicants and recipients, allow the family to choose either a standard deduction of 40% of gross income, or verified actual self-employment expenses to the same extent as allowed in the Food Stamp program. (W&IC §11155.3(c); §44-113.212(a) prior to the implementation of QR/PB in the county)

141-4A ADDED 8/04

Under QR/PB, to determine self-employment net income of CalWORKs applicants and recipients, allow the family to choose either a standard deduction of 40% of gross income, or reasonably anticipated self-employment expenses to the same extent as allowed in the Food Stamp program. (§44-113.212(a))

141-5

CalWORKs recipients who are self-employed shall be allowed to change from the 40% standard deduction to verified self-employment expenses, or vice versa, only at the earlier of redetermination or every six months. (§44-113.212(b), effective July 1, 1998)

143-1 ADDED 6/04

For CalWORKs purposes, earned income tax credit payments are exempted by federal law. (§44-111.61(l))

143-4

Renters credits; senior citizens, homeowners, and renters property tax assistance; senior citizens property tax postponement program; and tax rebates, credits, or similar temporary tax relief measures which are excluded by federal or state law; are exempt from consideration as income. (§§44-111.3k. and l.)

144-6 REVISED 8/04

In monthly reporting/prospective budgeting, a separate AU for an otherwise eligible

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person whose needs were not considered in the lump-sum computation may be established when the existing AU is ineligible due to the receipt of lump-sum income. (§44-205.71 repealed effective July 1, 2004.)

144-15A

For purposes of computing eligibility and grant amount in CalWORKs, the family includes all members of the AU and those family members living in the home who are referenced in W&IC §11008.14. It is the position of the CDSS that CalWORKs does not count the income of any family member not previously considered under AFDC. In addition, all deeming formulae are eliminated, except for those individuals described in §44-133.5 per All-County Letter (ACL) No. 97-57, which implemented the *Ortega* court order. (ACL No. 97-59, October 14, 1997, as modified by ACL No. 98-17, March 13, 1998) Effective July 1, 1998, "family" is defined differently for property purposes only. (§42-203.8)

144-15C

The receipt of CalWORKs shall not limit nor restrict a recipient's right to give, receive, sell, exchange, or change the form of property or income holdings. A period of ineligibility (POI) shall result when a recipient AU gives away or transfers, for less than Fair Market Value (FMV) nonexcluded income or property that would cause the AU "to exceed its eligibility for benefits." [emphasis added] (§42-221.1, as revised effective August 5, 1999)

144-15D

A POI shall result when, in the month of receipt, a recipient gives away or transfers for less than FMV, "nonexempt, nonrecurring income that would cause the AU to be ineligible for a cash aid payment. [emphasis added] A transfer for less than FMV results when a recipient uses nonexempt, nonrecurring income to purchase a product or service with an FMV less than the money transferred." (§42-221.4, as revised effective August 5, 1999)

144-15E

In a transfer of income situation, income is considered nonrecurring when the income is not interest nor contractual income, is received for a period of more than one month, and the "income is not from a source expected to occur regularly." (§42-221.41, as revised effective August 5, 1999)

144-16 ADDED 8/04

Under QR/PB, nonrecurring lump sum payments which are not recurring regular income and usually nonrecurring in regard to amount and/or source, shall be treated as property in the month of receipt and any subsequent months. (§42-209.2, 44-101(I))

145-1

All net income of persons included in the AU is income to the AU. (§44-133.1)

145-2 REVISED 8/04

Income is any benefit in cash or in kind which is in fact currently available (monthly reporting)/reasonably anticipated to be available (quarterly reporting) to the individual or is received as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance

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agencies. To be considered in determining the cash (formerly AFDC) aid payment, income must, in fact, be currently available (monthly reporting)/reasonably anticipated to be available (quarterly reporting) to needy members of the family in meeting their needs during the budget period (monthly reporting)/QR Payment Quarter (quarterly reporting). (§44-101, revised July 1, 1998, revised again July 1, 2004)

145-2A ADDED 8/04

Income is reasonably anticipated when the county determines that it is reasonably certain that the recipient will receive a specified amount of income during any month of the QR Payment Quarter. This definition applies to earned and unearned income. (§44-101(c))

145-3

All income shall be considered currently available during the month received, except in four (previously five) situations. The exceptions to current availability are:

- (a) Interest income, which is received regularly, but less frequently than monthly.
- (b) Employees with annual contracts of employment when the employee works and receives income in fewer than 12 months, but more than 8 months.
- (c) Child support, as provided for in §43-203.
- (d) Any income remaining after computing the period of ineligibility due to the receipt of nonrecurring lump-sum income.

and

- (e) Monthly recurring unearned governmental benefits when the receipt date of the income varies because mailing cycles cause two payments to be received in one month and none in the preceding or following month.

(§44-102; Subsection (d) was deleted, and Subsection (e) renumbered to (d), following the enactment of Assembly Bill No. 1542, W&IC §11157)

145-3A ADDED 8/04

Under QR/PB, all reasonably anticipated income shall be considered available to meet the needs of the AU during the QR Payment Quarter and shall be considered when determining eligibility and grant amount except for interest income received regularly, contractual income when received in fewer than 12 but more than eight months, and child support as provided for in §43-203. (§44-102.1 effective 7/1/04)

145-5

The income of the parent (natural or adoptive) of an eligible child, and the income of the spouse of that parent, as well as the income of the eligible child's siblings who live in the child's home, plus the income of the applicant or recipient, shall be considered available for purposes of eligibility determination and grant computation. (W&IC §11008.14, effective January 1, 1998)

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146-1

In CalWORKs (formerly AFDC) all earned income of a child under 19 years old is exempt for grant computation purposes if he or she is a full-time student or if he/she has a school schedule equal to at least one-half of a full-time curriculum and is working less than full time. (§44-111.221)

146-1A

The student exemption in §44-111.221 applies to full or part-time earnings between school terms or during vacations if the child plans to be a student during the next term or when the vacation period ends. (§44-111.223)

146-2

The earnings of CalWORKs children which are derived from participation in Job Training Partnership Act (JTPA) programs shall be disregarded from consideration as income for both eligibility and grant determinations. (§44-111.211)

146-4

The CDSS considers that earned income from any college work-study program including the CalWORKs College Work-study Program "continues to be exempt as income or property." (All-County Letter (ACL) 98-85, October 27, 1998 interpreting §44-111.25)